IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 5889 of 2007(A)

PETITIONER:

T.S.MOHAMMED, AGED 56 YEARS,
S/O.LATE SULAIMAN, THADATHIL HOUSE,
CHITTETHUKARA, KAKKANAD, ERNAKULAM DISTRICT.

BY ADV. SRI.K.S.BABU
SMT.N.SUDHA

RESPONDENTS:

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1. THRIKKAKARA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
KAKKANAD, ERNAKULAM DISTRICT.

2. DEPUTY DIRECTOR OF PANCHAYAT,
OFFICE OF THE DEPUTY DIRECTOR OF PANCHAYAT,
CIVIL STATION BUILDINGS, KAKKANAD, KOCHI-30.

3. THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM.

R1 BY ADV. SRI.S.SHANAVAS KHAN
R2 & R3 BY GOVT. PLEADER SRI. MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.5889 of 2007

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Dated this the 30th day of May, 2007

JUDGMENT

Petitioner challenges Ext.P16. By Ext.P16 petitioner has been called upon to remit Rs.4,65,403/-. This amount is demanded towards rent due from the petitioner. Case of the petitioner in brief is as follows:

Petitioner was conducting a tea shop in the Puramboke land. Respondent Panchayat evicted him for constructing a community hall. According to him the first respondent Panchayat instructed the petitioner to auction one shop room and promised that the rent of the shop room will be reduced subsequently. His further case is that he is the auction purchaser of Shop Room No.19 for a licence fee of Rs.4778/- per month. He spent money and obtained electric connection and water connection to the shop room since the Panchayat did not provide it. But the Panchayat did not adjust the amount. He submitted various representations. It is stated that licence fee was not reduced. Petitioner was served with Ext.P16 demand.

2. First respondent filed counter affidavit inter alia stating that the Secretary of the Panchayat never insisted the petitioner to participate in the auction and also there was no understanding that the room will be allotted at an affordable rate. It is further stated that auction was conducted after advertisement in the leading newspapers and several persons including the petitioner participated and the petitioner quoted the highest rate and the same was allotted to him. It is stated that the room occupied is situated in a highly potential area and the Panchayat is not collecting any unconscionable amount as rent. It is stated that as on 12.1.2007 the amount due is Rs.4,65,403/- and by virtue of interim order he had deposited Rs. One Lakh. It is stated that the Panahcyat needs money for implementation of various projects .

3. Heard counsel for the petitioner and the counsel appearing for the Panchayat. Learned counsel for the petitioner would submit that the amount demanded is not payable by the petitioner and what is payable by the petitioner is lesser amount. He would submit that the petitioner may be permitted to pay the amount in instalments and a statement of account may be furnished by the first respondent.

The writ petition is disposed of as follows:

There will be a direction to the first respondent to serve a statement showing the amounts received from the petitioner and the amount remaining to be paid by the petitioner within a period of one month from today. Upon receipt of the same, the petitioner is permitted to pay off the amount due as per the statement in twelve equal monthly instalments, the first of which shall be paid on or before 1.8.2007. Balance instalments will be paid on or before the first working day of the succeeding months. If any of the instalments is defaulted, it will be open to the Panchayat to proceed with the recovery proceedings in accordance with law.

(K.M. JOSEPH, JUDGE)

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